

REMARKS

Claims 1-20 are pending in the present application, claims 10-17 having been added herein. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

A new abstract has been added. Additionally, the specification has been revised to place it substantially in the format suggested in the Office Action. A substitute specification, in annotated and clean form, has been provided. No new matter has been added.

Claims 1-3 were rejected under 35 U.S.C. §112, second paragraph. The claims have been amended to overcome this rejection. Withdrawal of this rejection is respectfully requested. Additionally, claims 4-9 have been amended to remove the improper multiple dependencies. Consideration on the merits is respectfully requested.

Claims 1-3 were rejected under 35 U.S.C. § 103 as being unpatentable over Stewen (WO 99/22346). This rejection is respectfully traversed for the following reasons.

Claim 1 recites a method for controlling and operating a vending machine that incorporates a mobile radiocommunication transmit/receive unit and can be called from a user's mobile telephone unit over a mobile telephone network via an abbreviated mobile telephone number affixed on the vending machine. The method comprises, upon receipt of a call from the user's mobile telephone unit to the abbreviated mobile telephone number on the vending machine, establishing a connection to a bank and determining if the user has an account at that bank, and if so, whether there are sufficient funds in the user's

account, if the user has an account and there are sufficient funds, prompting, via the vending machine, the user to select a merchandise item, after the merchandise item has been dispensed, generating, a billing entry in the vending machine, and settling the billing entry via a payment gateway, the step of settling comprising accessing a mini-payment account the user has opened with a bank, and determining the mini-payment account number based on the user's mobile telephone number. Claim 1 is considered exemplary of the other independent claims 10 and 18. The invention, as reflected in claims 1, 10, and 18, is not taught, disclosed or made obvious by the prior art of record.

Stewen discloses a system in which charges for items received from a vending machine or other service apparatus, are applied to a user's mobile telephone account, and thereafter appear on the mobile telephone bill. The Office Action recognizes that Stewen does not disclose billing the charges to an account opened with a bank. The Office Action asserts that

the choice of which account to charge would be merely a design choice that has no effect on the operation of the claimed method and would produce the same outcome. It would have been obvious to build charges to an account opened at a bank because doing so would allow for charges to be billed directly to a user's checking account.

Applicant respectfully disagrees.

First, the outcome would not be the same, since in the case of billing the charges to the telephone bill, payment would not be received by the vending machine operator until a date in the future, possibly until the telephone bill is paid by the user or until the telephone company pays the vending machine operator. In contrast, according to

the present claimed invention, the goods are dispensed only after it is verified that the user has an account at the bank, and there are sufficient funds in the user's account to pay for the goods. After the goods are dispensed, the account is immediately debited for the amount owed to the vending machine operator, and the account of the vending machine operator is thus credited with that amount. These features are reflected in amended claim 1 and new claims 10 and 18.

Second, Applicant respectfully submits it only with impermissible hindsight reference to Applicant's disclosure would one of ordinary skill in the art have found it obvious to modify Stewen to yield Applicant's claimed invention. There is nothing in Stewen that would have suggested to one of ordinary skill in the art that a bank account could be debited for the purchase price of the item, or that Stewen's system could be modified to implement such a method.

Stewen does not disclose a method including the steps of, upon receipt of a call from the user's mobile telephone unit to the abbreviated mobile telephone number on the vending machine, establishing a connection to a bank and determining if the user has an account at that bank, and if so, whether there are sufficient funds in the user's account, if the user has an account and there are sufficient funds, prompting, via the vending machine, the user to select a merchandise item, after the merchandise item has been dispensed, generating, a billing entry in the vending machine, and settling the billing entry via a payment gateway, the step of settling comprising accessing the user's account, and determining the account number based on the user's mobile telephone number. For at least these reasons, Applicant respectfully submits that claims 1, 10 and 18 are patentable

over the prior art of record. Claims 2-9, 11-17, and 19-20 depend from and include the recitations of claims 1, 10, and 18. Applicant respectfully submits that claims to-9, 11-17, and 19-20 are patentable in and of themselves and as they depend from and include the recitations of claims 1, 10, and 18, which are patentable for the reasons discussed above.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of record. Applicant submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

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